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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/796,232	03/09/2004	Yutaka Kobayashi	FUSA 21.043	2127	
26304 7590 01/27/2009 KATTEN MUCHIN ROSENMAN LLP 575 MADISON AVENUE NEW YORK, NY 10022-2585			EXAMINER		
			NGUYEN, TUAN HOANG		
NEW YORK, N	NY 10022-2385		ART UNIT	PAPER NUMBER	
			2618		
			MAIL DATE	DELIVERY MODE	
			01/27/2009	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		ion No.	Applicant(s)					
Office Asticus Occurrence		232	KOBAYASHI, YUTAKA					
Office Action Summary	Examine	r	Art Unit					
	TUAN H.	NGUYEN	2618					
The MAILING DATE of this commun Period for Reply	ication appears on th	e cover sheet with the o	correspondence ac	ldress				
A SHORTENED STATUTORY PERIOD F WHICHEVER IS LONGER, FROM THE M - Extensions of time may be available under the provisions after SIX (6) MONTHS from the mailing date of this comn - If NO period for reply is specified above, the maximum st - Failure to reply within the set or extended period for reply Any reply received by the Office later than three months a earned patent term adjustment. See 37 CFR 1.704(b).	AILING DATE OF T of 37 CFR 1.136(a). In no enunication. atutory period will apply and will, by statute, cause the ap	HIS COMMUNICATION vent, however, may a reply be tin vill expire SIX (6) MONTHS from plication to become ABANDONE	N. nely filed the mailing date of this c D (35 U.S.C. § 133).					
Status								
1) Responsive to communication(s) file	id on 30 Sentember	2008						
·	2b)∏ This action is i							
· <u> </u>	<i>′</i> —		osecution as to the	e merits is				
•	3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.							
closed in accordance with the practi	se dilder Ex parte Q	3ayıc, 1000 O.B. 11, 40	00 0.0. 210.					
Disposition of Claims								
4) Claim(s) 1-29 is/are pending in the a 4a) Of the above claim(s) is/a 5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) 1-29 are subject to restriction	re withdrawn from co							
Application Papers								
9)☐ The specification is objected to by the	e Examiner.							
10) The drawing(s) filed on is/are:	a)∏ accepted or b) ☐ objected to by the !	Examiner.					
Applicant may not request that any object	ction to the drawing(s)	be held in abeyance. Se	e 37 CFR 1.85(a).					
Replacement drawing sheet(s) including	the correction is requi	red if the drawing(s) is ob	jected to. See 37 C	FR 1.121(d).				
11)☐ The oath or declaration is objected to	by the Examiner. N	ote the attached Office	Action or form P	ΓΟ-152.				
Priority under 35 U.S.C. § 119								
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 								
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (F3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	TO-948)	4) Interview Summary Paper No(s)/Mail Do 5) Notice of Informal F 6) Other:	ate					

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DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

Claims 1-29 are directed to 3 species as illustrated in figures 2-5. The three species are identified as below.

Species 1 – 23 directed to a transmission power control that compares error rate of receive data and target error rate on a receiving side, controls target signal-to-interference ratio, and causes a transmitting side to control transmission power in such a manner that measured signal-to-interference ratio will agree with the target signal-to-interference ratio as shown in figure 1 of the application. This species need to be search in a different subclass 455/522.

Species 2 – claim 24 directed to an extraction unit for extracting format information of a received receive signal as shown in figure 3 of the application. This species need to be search in a different subclass 455/67.13.

Species 3 – claim 25-29 directed to a **unit configured to switch transmission power control** between a first transmission power control on a basis of quality measured for the data channel and a second transmission power control on a basis of quality measured for the control channel as shown in figures 2 and 4-5 of the application. This species need to be search in a different subclass 455/525.

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2. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

- 3. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.
- 4. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).
- 5. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

7.	Any response to this action should be mailed to:	
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Mail Stop_____ (Explanation, e.g., Amendment or After-final, etc.)

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Facsimile responses should be faxed to:

(571) 273-8300

Hand-delivered responses should be brought to:

Customer Service Window

Randolph Building

401 Dulany Street

Alexandria, VA 22313

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan H. Nguyen whose telephone number is (571) 272-8329. The examiner can normally be reached on 8:00Am - 5:00Pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Maung Nay A. can be reached on (571) 272-7882. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Information Consider the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tuan Nguyen/ Examiner Art Unit 2618 /Nay A. Maung/

Supervisory Patent Examiner, Art

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